

USPTO Customer No. 25280

Case 2080D

REMARKS**Summary of Claim Amendments**

Several independent claims have been modified to include the limitations of dependent claims that were previously identified as being allowable: Claim 1 (to include the limitations of Claim 8), Claim 41 (to include the limitations of Claim 54), Claim 66 (to include the limitations of Claim 70), Claim 81 (to include the limitations of Claims 86 and 87), and Claim 90 (to include the limitations of Claims 95 and 96).

Claims 10, 112-114, and 122-124 were amended for the sake of clarity.

Claim 89 was amended to independent form and further includes the limitations of Claims 86 and 87.

Claims 9, 71, 88, 97, and 127 were amended to correct their dependency, based on the other claim amendments.

Claims 8, 15-18, 54, 63, 70, 86, 87, 95, and 96 have been cancelled, without prejudice.

Enclosures

Also enclosed with this Response are a Supplemental Information Disclosure Statement, a signed declaration from the inventor regarding the Style Specification sheet for Milliken Fabric Style No. 072210 (which is referenced in US Patent 6,262,371 to Allen), and a Terminal Disclaimer to Obviate a Double Patenting Rejection.

Claim Objections

Claims 112-114 and Claims 122-124 are objected to because of the following informalities. In Claims 112 and 122, line 2, the word "denier" should be inserted before the word "from" for better clarity. In Claims 113 and 123, line 2, the word "remaining" should be inserted before the word "open" for better clarity. In Claims 114 and 124, line 3, the phrase "that of" should be inserted after the word "than" for better clarity.

The Claims have been amended to overcome the objections of the Examiner.

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Rejection under 35 USC 102

Claims 90-93 and 98 are rejected under 35 USC 102(b) as being anticipated by CONTI (US Patent 5,027,864).

From Applicant's understanding, the CONTI innerduct is formed of synthetic plastic tubes. The CONTI reference does not teach a method of dividing a conduit by creating an innerduct formed of woven textile material that includes a plurality of longitudinal channels, as is claimed by Applicant in amended Claim 90.

Claim 90 has been amended to include the limitations of Claims 95 and 96. Claims 91-93 and 98 depend, either directly or indirectly, from Claim 90 and include all of the limitations thereof.

Because the CONTI reference fails to teach all of the limitations of the Claims, and because Claims 95 and 96 were previously considered allowable, Applicant submits that Claim 90 is now allowable and that all claims that depend, either directly or indirectly, from Claim 90 are also allowable.

Rejection under 35 USC 103

Claims 81-82, 84-85, and 100 are rejected under 35 USC 103(a) as being unpatentable over CONTI (US Patent 5,027,864).

From Applicant's understanding, the CONTI innerduct is formed of synthetic plastic tubes. The CONTI reference does not teach a method of dividing a conduit by creating an innerduct formed of woven textile material that includes monofilament polyester yarns in the warp and monofilament nylon yarns in the fill, as is claimed by Applicant in amended Claim 81.

Claim 81 has been amended to include the limitations of Claims 86 and 87. Claims 82, 84, and 85 depend from Claim 81 and contain all of the limitations thereof. Claim 100 depends from Claim 90, which has been amended to include the limitations of Claims 95 and 96.

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The CONTI reference does not teach or suggest the use of a textile material—much less the use of a woven textile material having monofilament yarns that is configured to include a plurality of channels—as is claimed by the Applicant.

Because there is no teaching in the CONTI reference to divide a conduit using such a structure, and because the limitations of previously allowable claims have been incorporated into independent claims 81 and 90, Applicant believes the rejection to be overcome and asks that it be withdrawn.

* * *

Claims 1-4, 6-7, 15-17, 41-45, 47-48, 50, 52, 56-57, and 63 are rejected under 35 USC 103(a) as being unpatentable over FORD (US Patent 5,413,149) in view of CONTI (US Patent 5,027,864).

Claim 1 has been amended to include the limitations of Claim 8, which specifies an apparatus, disposed within a conduit, where the apparatus includes (a) an innerduct structure formed from a textile material having polyester warp yarns and nylon fill yarns and (b) a pulling means. Claims 4 and 6-7 depend from Claim 1 and contain all of the limitations thereof.

Claims 15-17 and 63 have been cancelled, thereby obviating the rejection with respect to these claims.

Claim 41 has been amended to include the limitations of Claim 54, which specifies that a cable extends through the channel of the innerduct and that the innerduct has a higher melting temperature than that of the cable's outer sheath. Claims 42-45, 47-48, 50, 52, and 56-57 depend, either directly or indirectly, from Claim 41 and contain all of the limitations thereof.

From Applicant's understanding, the FORD reference teaches the use of a single textile tube, having resiliently set spirally configured filaments incorporated therein, to house cables and the like. The CONTI reference uses tubes formed of plastic material to house cables. The combination of references fails to teach all of the limitations of Applicant's claims.

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Independent claims 1 and 41 have been amended to include limitations from claims that were previously deemed allowable. As such, Applicant believes these Claims, and the claims that depend therefrom, are now in condition for allowance. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

* * *

Claims 15-18, 41, and 49 are rejected under 35 USC 103(a) as being unpatentable over KELLER (US Patent 6,178,278) in view of CONTI (US Patent 5,027,864).

Claims 15-18 have been cancelled, thereby obviating the rejection with respect to these claims. Claim 41 has been amended to include the limitations of Claim 54, which specifies that a cable extends through the channel of the innerduct and that the innerduct has a higher melting temperature than that of the cable's outer sheath. Claim 49 depends from Claim 41 and contains all of the limitations thereof.

From Applicant's understanding, the KELLER patent teaches an indoor/outdoor cable having an optical fiber, a buffer tube, a fiberglass yarn matrix, and a jacket. The buffer tube, the fiberglass yarn matrix, the jacket, or a combination thereof, are made from a blend of polyvinylidene fluoride and a flame retardant polyvinyl chloride.

The CONTI reference has been discussed previously.

Claim 41 has been amended to include the limitations of Claim 54, which specifies that a cable extends through the channel of the innerduct and that the innerduct has a higher melting temperature than that of the cable's outer sheath. Claim 54 was previously considered allowable, since the combination of references fails to teach all of the limitations of Applicant's claims.

Because the independent claim has been amended to include limitations previously considered allowable, Applicant believe the amendment sufficient to overcome the rejection and requests that the rejection of Claims 41 and 49 be withdrawn.

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Double Patenting

Claims 1, 10, 15, 41, 66, 81, 90, 109, and 119 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6, 65, 5, 32, and 43 of US Patent No. 6,304,698. Although the conflicting claims are not identical, they are not patentably distinct from each other because the former claims are broader versions of the latter claims.

A terminal disclaimer over US Patent 6,304,698 is included herewith to overcome such rejection.

Allowable Subject Matter

The Examiner has indicated that Claims 5, 8-14, 46, 51, 53-55, 58-62, 64-80, 83, 86-89, 94-97, 99, 101-128 are allowable if rewritten either in independent form or to overcome the objections set forth in the Office Action.

Applicant has amended the Claims to incorporate the suggestions of the Examiner and to overcome the prior art. Applicant believes that all of the pending Claims now stand in condition for allowance.

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CONCLUSION

For the reasons set forth above, it is respectfully submitted that all claims now stand in condition for allowance.

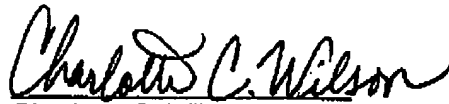
Should any issues remain after consideration of this Amendment and accompanying Remarks, the Examiner is invited and encouraged to telephone the undersigned in the hope that any such issue may be promptly and satisfactorily resolved.

This response is accompanied by a Petition for Extension of Time (two months). In the event that there are fees associated with the submission of these papers (including additional extension of time fees), authorization is hereby provided to withdraw such fees from Deposit Account No. 04-0500.

Respectfully submitted,

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